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06/16/05

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

EILEEN POLIZZI, FUND MANAGER
of the TEAMSTERS LOCAL 404
HEALTH SERVICES AND INSURANCE PLAN,
Plaintiff,

v.

N&B EXPRESS, INC. and JAMES CAPELLI
Defendants,

and

BANK OF WESTERN MASSACHUSETTS,
Trustee.

CIVIL ACTION NO.

05 - 30183 - MAP

Preliminary Injunction
Temporary Restraining Order

MAP
9.7.05

This matter came on for hearing upon the Verified Complaint and Application For A
Temporary Restraining Order of the plaintiff Fund Manager of the Teamsters Local Union No.
404 Health Services and Insurance Plan. The defendants were notified of the application. The
parties appeared and were afforded an opportunity to be heard, through counsel. It appearing
from the Verified Complaint and the Affidavits of Eileen Polizzi and Ronald Easton that the
Fund has a substantial likelihood of success on the merits, and it further appearing that the Fund
will sustain irreparable harm in the absence of injunctive relief, NOW THEREFORE in
consideration thereof it is hereby ORDERED:

1. N & B Express, Inc., its officers, agents, employees and attorneys, and those persons in active concert or participation with them who receive actual notice of this order through personal service or otherwise are hereby enjoined and restrained from transferring, alienating or otherwise disposing of the process of any sale of defendant's assets, to the extent of \$ 485,000.00, pending a further order of this court.
2. James Capelli, and those persons in active concert or participation with him who receive actual notice of this order through personal service or otherwise are hereby enjoined and restrained from transferring, alienating or otherwise disposing of the process of any sale of defendant's assets, to the extent of \$ 75,000.00, pending a further order of this court.

*The court has treated this as a motion for preliminary injunction. MAP 9.7.05

3. This matter shall be set down for hearing on request from either defendant for further consideration of Prayer 2 of the Verified Complaint, which ~~seeks a preliminary injunction consistent with the terms of the foregoing order.~~
- MAP 9.7.05
MAP 9.7.05

By the Court,

Michael A. Berman
United States District Judge

Date: Sept. 7, 2005

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I hereby certify on 9-7-05 that the foregoing document is true and correct copy of the
☐ electronic docket in the captioned case
☐ electronically filed original filed on _____
☒ original filed in my office on 9-7-05

Sarah A. Thornton
Clerk, U.S. District Court
District of Massachusetts
By: [Signature]
Deputy Clerk

FRANKLIN, ss

PROOF OF SERVICE

OCTOBER 7, 2005; 1:15 pm

On Oct. 7, 2005, at 1:15 p.m., I served a copy of the within Preliminary Injunction upon within-stated BANK of WESTERN MASSACHUSETTS by delivering IN HAND to SUSAN DILLON, Administrator in Charge, at 45 Federal St., Greenfield, MA., 01301.

DATE: October 7, 2005

SHERIFF'S FEE: \$31.58

[Signature]
Gordon E Ainsworth, Deputy Sheriff